

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

PATRICK O'BRIEN JR.,

Plaintiff,

V.

MICHAEL J. ASTRUE, Commissioner of
the Social Security Administration,

Defendant.

CASE NO. C11-5178-RJB-JRC

REPORT AND
RECOMMENDATION ON
STIPULATED MOTION FOR
REMAND

This matter has been referred to Magistrate Judge J. Richard Creature pursuant to 28

19 U.S.C. § 636(b)(1)(B) and Local Magistrates Rule MJR 4(a)(4), and as authorized by Mathews,
20 Secretary of H.E.W. v. Weber, 423 U.S. 261 (1976). This matter is before the Court on
21 Defendant's stipulated motion to remand the matter to the administration for further
22 consideration. (ECF No. 21.)

1 After reviewing Defendant's stipulated motion and the relevant record, the undersigned
2 recommends that the Court grant Defendant's motion, and reverse and remand this matter to the
3 Commissioner pursuant to sentence four of 42 U.S.C. § 405(g).

4 On remand, based on the parties' stipulation, this Court recommends that the
5 Administrative Law Judge assigned to this matter following remand (the "ALJ") hold a new
6 hearing and issue a new decision.

7 The ALJ should be directed to consider the medical evidence as a whole. The ALJ
8 should consider the severity of Plaintiff's peripheral neuropathy. The ALJ should consider
9 Plaintiff's testimony and the statements of any lay witnesses, as well as evidence from the
10 Veteran's Administration. The ALJ should further consider Plaintiff's residual functional
11 capacity. Once the residual functional capacity has been established, the ALJ should obtain
12 supplemental vocational expert testimony, if necessary based on the sequential disability
13 evaluation process, to determine if Plaintiff could perform any jobs in the national economy.
14 The ALJ should present a complete hypothetical to the vocational expert and should confirm
15 consistency with the Dictionary of Occupational Titles.

16 This Court further recommends that the ALJ take any other actions necessary to develop
17 the record. In addition, Plaintiff should be allowed to submit additional evidence and arguments
18 to the ALJ on remand.

19 Given the facts and the parties' stipulation, the Court recommends that the District Judge
20 immediately approve this Report and Recommendation and order that the case be **REVERSED**
21 and **REMANDED** pursuant to sentence four of 42 U.S.C. § 405(g).

1 The parties agree and this Court recommends that reasonable attorney fees should be
2 awarded following proper application, pursuant to the Equal Access to Justice Act, 28 U.S.C. §
3 2412.

4 Dated this 26th day of October, 2011.

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7 J. Richard Creatura
United States Magistrate Judge

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